Federal Court  Cour fédérale

Date: 20180517

Docket: IMM-4475-17

Citation: 2018 FC 515

Montréal, Quebec, May 17, 2018

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

LILIANE UWASE
AND
CYNTHIA UGIRUMURERA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] It is not the purpose of an H&C application to appeal the Refugee Protection Division's [RPD] decision (*Yapa Mudiyansele v Canada (Citizenship and Immigration)*, 2012 FC 928 at para 30 [*Yapa*]).

II. Nature of the Matter

[2] This is an application for judicial review under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], of the decision of a senior immigration officer [Officer] in the Backlog Reduction Office in Montreal, dated September 29, 2017 [Decision], which denied the Applicants' applications for permanent residence from within Canada on humanitarian and compassionate [H&C] grounds.

III. Facts

[3] The Applicants, Liliane Uwase and Cynthia Ugirumurera, claim to be sisters who are citizens of Rwanda and Tutsis.

[4] On July 28, 2013, the Applicants claimed asylum after arriving in Canada. They were arrested and detained upon their arrival because of identity issues.

[5] On October 23, 2013, the RPD of the Immigration and Refugee Board of Canada rejected the Applicants' refugee claim on credibility and identity grounds. This decision was not challenged before this Court.

[6] On December 27, 2013, the Applicants were released from detention under specific conditions.

[7] On December 30, 2014, the Applicants presented an application for a Pre-Removal Risk Assessment, which was rejected on October 3, 2016. On April 6, 2017, an application for leave to seek judicial review of the decision was denied.

[8] On April 28, 2015, the Applicants were each issued a work permit which expired in 2015. They were then able to renew their work permits until 2017.

[9] On July 22, 2015, the Applicants initiated an application for permanent residence based on H&C grounds, which was refused on October 3, 2016. Although the Applicants sought judicial review of the decision, the application was discontinued on the basis that the matter would be reconsidered by another visa officer.

[10] With the Minister's consent, the Applicants presented updates and further submissions regarding their H&C application.

IV. Impugned Decision

[11] On September 29, 2017, the Officer sent both Applicants the Decision by letter stating that their H&C application was denied. This Decision is the subject of this judicial review. The assessment of the H&C considerations is written in French and applies to both Ms. Liliane Uwase [Liliane] and Ms. Cynthia Ugirumurera [Cynthia], as both Applicants filed their submissions jointly.

[12] The Officer determined that the Applicants did not qualify for an exemption from legislative requirements that would allow their application for permanent residence to be processed from within Canada. In support of their allegations, the Applicants mainly presented alleged proof of their identities, their establishment in Canada and adverse country conditions in Rwanda as referenced by them.

A. *Applicants' identities*

[13] The Officer gave significant weight to the evaluation that was made by the RPD regarding the Applicants' identities. As part of their refugee claim in 2013, the Applicants had the opportunity to respond to the concerns that were raised during the hearing; however, the Officer noted that the Applicants failed to establish their identities, as well as their nationality, on a balance of probabilities. In support of their H&C application, the Applicants submitted additional evidence in order to prove their identities: their sister Beathe's Personal Identification Form [PIF] in 2011, a copy of their mother's certificates of birth and death, and a copy of the arrest warrants issued against them in Rwanda. After taking these documents into consideration, the Officer determined that they were insufficient to establish the Applicants' identities, based on the lack of authenticity of the birth and death certificates, as well as the arrest warrants.

[14] The Officer drew an additional negative inference about the Applicants' family situation. She noted that the Applicants were arrested upon arrival in Canada and detained for five months for reasons of identity. She considered the Minister of Public Safety's notice of intervention that was sent to the RPD in 2013. For instance, the Applicants reported erroneous birth dates and failed to declare additional members of their family. They had also travelled to the United

Kingdom, but denied such evidence when asked about it. The Officer found that the information that was obtained by the Canada Border Services Agency was reliable and verified, because it derived from a comparison of fingerprints and photos. The Officer concluded that the Applicants did not discharge the burden of proving their identity.

B. *Establishment in Canada*

[15] The Officer noted that the Applicants arrived in Canada in July 2013 and that they have been residing in Canada since their release in December 2013. The Officer considered the Applicants' involvement in the community, as well as their relationships with friends and family over the course of four years. Although these elements are commendable, the Officer found that it was not unusual for the Applicants to connect with the community and to maintain good behaviour in Canada. The Officer also noted that it was not unusual for the Applicants to seek employment after they obtained their work permits on April 28, 2015. Although integration into the labour market is a positive element, the Officer found that it was nevertheless relatively recent, considering that the Applicants only obtained employment in 2015. In the same vein, the Officer noted that Liliane and Cynthia are no longer in possession of valid work permits respectively since January 2017 and August 2017. To this date, the Applicants have not provided any explanations as to why they did not renew the said work permits.

[16] The evidence as a whole did not demonstrate that a temporary disconnection from the Applicants' involvement in the community would present an unreasonable hardship in their situation, in the event of a refusal of the H&C application. An establishment of four years in Canada was found to be brief by the Officer, considering that the Applicants have lived outside

Canada the majority of their lives. After reviewing all the evidence submitted by the Applicants, the Officer did not give weight to their establishment in Canada, as it did not justify the granting of an exemption under subsection 25(1) of the IRPA under such circumstances.

C. *Adverse country conditions in Rwanda*

[17] The Applicants claim that they would be persecuted if they had to return to Rwanda, as they would become victims of harassment by the Rwandan authorities because of their relationship with their alleged uncle, Kayumba Nyamwasa Faustin. The Officer noted that the allegations in respect of being targeted in regard to General Faustin had been reviewed and dismissed by the RPD; in addition, due to the said targeting, having had its impact, all of which was part of the intrinsic narrative of the Applicants' family members constitutes the background to the files which had been reviewed and dismissed by the RPD. This, it should be noted, is especially important in Beathe's refugee claim in 2011. The Officer was not convinced that the Applicants were related to Kayumba Nyamwasa Faustin, as the Applicants did not present sufficient proof on the matter.

[18] The Applicants also claim that they would not be able to receive family support in the event of a dismissal from Canada. The Officer was not convinced that the Applicants were able to establish their family situation, mainly because of identity and credibility issues. For instance, the Applicants have indicated not being aware of their brother Remy Zitoni's whereabouts, yet they submitted a letter dated June 12, 2014, and signed by the name of Zitoni Remy. The Officer gave no weight to the said letter and concluded that it constitutes self-serving evidence.

[19] The Officer considered the general situation in Rwanda, particularly the issues of sexual harassment, gender discrimination and poverty. The Officer accepted the fact that Rwanda does not find itself in ideal conditions, as these issues touch the majority of the Rwandan population. Consequently, the Officer determined that the Applicants failed to demonstrate how the situation in Rwanda impacts the Applicants' situation, allowing them to be exempt from presenting their H&C application from outside Canada.

[20] The Officer concluded that adverse conditions are one of many factors that officers must consider; however, it does not outweigh all other factors. In the case of the Applicants, the Officer did not give significant weight to this factor for the aforementioned reasons.

D. *Cynthia's mental health issue*

[21] The Applicant, Cynthia, has provided evidence showing that she was in treatment for a depressive disorder. In light of all the information on file, the Officer ultimately gave some weight to the letter dated December 6, 2016 from Cynthia's psychiatrist; however, the Officer concluded that the information on HIV treatment in Rwanda, provided by the Applicant, was not pertinent in order to establish that Cynthia would suffer from any hardship upon her return to Rwanda due to a lack of treatment possibilities.

E. *Conclusion and weighing of the factors*

[22] After reviewing the Applicants' submissions, as well as all the evidence and information on file, the Officer refused the H&C application. She was not satisfied that there were sufficient

factors to justify the granting of permanent residence in Canada on H&C grounds in accordance with subsection 25(1) of the IRPA.

V. Issues

[23] The Applicants raised the following issues:

1. Did the Officer make an unreasonable finding on the Applicants' identities?
2. Did the Officer err in the assessment of Cynthia's mental health?
3. Was the Officer's assessment of the adverse country conditions in Rwanda unreasonable?
4. Did the Officer apply the wrong legal test in assessing the Applicants' H&C application?

VI. Standard of Review

[24] An officer's assessment of an application for permanent residence under H&C considerations raises questions of mixed fact and law and is reviewable under the standard of reasonableness: *Basaki v Canada (Citizenship and Immigration)*, 2015 FC 166 at para 18.

[25] An immigration officer's decision is highly discretionary and a reviewing court must show deference to the decision maker's reasoning process (*Leung v Canada (Citizenship and Immigration)*, 2017 FC 636 at para 11). The Court should only intervene if the Decision is unreasonable, meaning that it falls outside the "range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

VII. Relevant Provisions

[26] Subsection 25(1) of the IRPA is relevant in this proceeding:

Humanitarian and compassionate considerations — request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	**25** (1) Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

VIII. Analysis

[27] For the following reasons, the application for judicial review is denied.

A. *Did the Officer make an unreasonable finding on the Applicants' identities?*

[28] The Officer referred to the negative decision that was rendered by the RPD in 2013 and in which it was decided that the Applicants had failed to establish their identities. The Officer noted that the Applicants raised the same allegations that were part of their claim before the RPD. In the event of a refusal of their refugee claim, the Applicants had stated their fear of persecution in Rwanda because of their relationship with their alleged uncle, General Kayumba Nyamwasa Faustin; however, the RPD did not find the Applicants to be credible and therefore rejected their claim.

[29] The RPD's decision was not challenged before this Court. As a result, it was reasonable for the Officer, in order to render her Decision, to give considerable weight to the RPD's determinations although they are not binding. It is not the purpose of an H&C application to appeal the RPD's decision (*Yapa*, above, at para 30).

> … The Applicants seem to be of the view that if they continue to add documents to the record, the credibility findings of the Refugee Board are somehow going to be "reversed" or "forgotten". In my view, that is a mistaken view because the officer who hears an H&C application does not sit in appeal or review of either the Refugee Board or the PDRCC Officer's decision. […] In short, the purpose of the H&C application is not to re-argue the facts which were originally before the Refugee Board, or to do indirectly what cannot be done directly -- i.e., contest the findings of the Refugee Board.
>
> (*Hussain v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 751, 97 A.C.W.S. (3d) 726 at para 12.)

[30] In support of their H&C application, the Applicants submitted additional documents in order to prove their identities, such as Beathe's PIF when she claimed asylum in 2011, the

original and a copy of their mother's birth and death attestations, as well as a copy of the arrest warrants issued against the Applicants in Rwanda. The Court finds that the Officer made her own assessment of the Applicants' identities, as part of her exercise. Although the Officer was presented with additional documents regarding the identity of the Applicants, she came to the conclusion that the Applicants failed to meet their burden of proof. It was therefore reasonable for the Officer to give little or no weight to the evidence before her, as it is an officer's expertise to assess and to consider the evidence. Consequently, "the mere disagreement of the [Applicants] with the assessment made of that evidence does not warrant the Court's intervention" (*Quijano v Canada (Citizenship and Immigration)*, 2009 FC 1232 at para 35).

[31] An opportunity to respond was also given to both Applicants on more than one occasion (i.e. in a letter dated November 17, 2015 and sent by a senior immigration officer). The Applicants argue that the Officer had an obligation to disclose her concerns on these additional documents. In the present matter, the Court finds that there was no duty on the Officer to request further elements of fact and/or clarification. The Applicants had the burden of ensuring that all available information was presented to the Officer in order to satisfy her that there would be sufficient H&C grounds to warrant an exemption under paragraph 25(1) of the IRPA (*Kandasamy v Canada (Citizenship and Immigration)*, 2010 FC 1090 at para 36). The Court concludes that the Officer's finding on the Applicants' identities is reasonable.

B. *Did the Officer err in the assessment of Cynthia's mental health?*

[32] The Applicants argue that the assessment of Cynthia's mental health was not in accordance with the decision rendered by the Supreme of Court of Canada in *Kanthasamy v*

Canada (Citizenship and Immigration), 2015 SCC 61 [*Kanthasamy*]. They submit that the Officer failed to consider what effect the removal from Canada would have on Cynthia's mental health (*Kanthasamy*, SCC Decision above, at para 48). According to the Applicants, the Decision is completely silent on the impact of Cynthia's deportation on her mental health, as the Officer exclusively focuses on the issue of treatment in Rwanda (*Sutherland v Canada (Citizenship and Immigration)*, 2016 FC 1212 at paras 32-33 [*Sutherland*]). For these reasons, the Applicants believe that the matter should be sent back to another officer for redetermination.

[33] The Court disagrees with the aforementioned submissions. As explained by the Respondent, in the *Kanthasamy* case, the officer had accepted the psychologist's diagnosis on the basis that the applicant "suffered from post-traumatic stress disorder and adjustment disorder with mixed anxiety and depressed mood resulting from his experiences in Sri Lanka, and that his condition would deteriorate if he was removed from Canada." [Emphasis added] (*Kanthasamy*, SCC Decision above, at para 46). Accordingly, the Supreme Court of Canada stated the following in its reasons for judgment:

> [47] … Once she accepted that he had post-traumatic stress disorder, adjustment disorder, and depression based on his experiences in Sri Lanka, requiring further evidence of the availability of treatment, either in Canada or in Sri Lanka, undermined the diagnosis and had the problematic effect of making it a conditional rather than a significant factor.
>
> [48] Moreover, in her exclusive focus on whether treatment was available in Sri Lanka, the Officer ignored what the effect of removal from Canada would be on his mental health.
>
> [Emphasis added.]

[34] In the present case, the Officer gave, nevertheless, probative value (“un certain poids”) to the letter from Cynthia’s psychiatrist, dated December 6, 2016. The letter mentions for instance that Cynthia was hospitalized in June 2016 due to depressive disorder. There is no question that the Officer is mindful of Cynthia’s condition and has accepted the doctors’ diagnosis which can be found in the psychiatric reports. The Officer, however, did not attribute such depressive disorder to the narrative related by the Applicant. In fact, there is also evidence on file, an order from the Court of Quebec, dated July 2016, to keep Cynthia under supervision at the CISSS De La Montérégie-Centre, following her suicide attempt in 2016. Such evidence was reviewed by the Officer; however, following the RPD’s decision namely that the Applicants were found not credible due to deficiencies in evidence related to their identities (i.e. several contradictions between their testimony and their PIF), as well as the Officer’s negative decision regarding the Applicants’ identity, the Officer chose not to give significant weight to the psychiatrist’s letter. In fact, the Court notes that what the Officer did not accept from the letter was the possibility that Cynthia’s symptoms might have developed due to the events in Rwanda prior to her arrival in Canada, as stated by Cynthia’s psychiatrist. The Applicants failed to establish their identity and did not present the Officer with enough evidence that would confirm their relationship with General Faustin, as well as their previous arrests by the Rwandan authorities.

> [20] It is clearly the officer's responsibility to assess the probative value of medical reports, as is the case for any other evidence. As part of that exercise, she could rightly take into consideration the applicant's lack of credibility: see *Mpia-Mena-Zambili v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1349 at para 60; *Palka v Canada (Minister of Public Safety and Emergency Preparedness)*, 2008 FCA 165 at para 17 [*Palka*]. [Emphasis added.]
>
> (*Wann v Canada (Citizenship and Immigration)*, 2015 FC 346 [*Wann*].)

[35] The Court finds that the Officer's decision to not give significant weight to the letter was explained in her reasons and does not fall outside the range of possible, acceptable outcomes which are defensible in respect of the facts and law. The Officer decided that there was insufficient evidence supporting the Applicants' allegations in order to grant them the exemption under subsection 25(1) of the IRPA. Moreover, the psychosocial report from the Regional Program for the Settlement and Integration of Asylum Seekers [PRAIDA] provided by the Applicants were, once again, based on allegations which were found not credible by the RPD and would have contradicted the RPD's findings had the Officer accepted the report from PRAIDA. Under such circumstances, "where an H&C applicant does not establish certain facts relied upon, any hardship those facts might lead to need not be considered by the H&C officer" (*Miyir v Canada (Citizenship and Immigration)*, 2018 FC 73 at para 26). Bearing in mind that the Applicants were not able to prove facts that are crucial to their H&C application, such as their identities and their family members, the Court finds that the Officer did not commit a reviewable error.

> A la lumière de l'ensemble des éléments précédemment mentionnés, compte tenu qu'à ce jour la demanderesse Cynthia, tel que sa sœur Liliane, n'a établi son identité, ni sa nationalité et qu'il y a insuffisance de preuve attestant sa situation advenant un éventuel départ, je ne peux accorder de poids significatif quant à son état de santé allégué.
>
> (Tribunal Record, H&C Decision, p 11.)

[36] With regard to the *Sutherland* case, the officer had acknowledged the two medical reports. The psychological diagnosis clearly explained why Ms. Sutherland's condition would aggravate if she were to be removed to Rwanda. The officer therefore committed a reviewable error by solely considering the availability of mental health care in Grenada or St. Vincent when

she had explicitly acknowledged the medical opinion. As articulated by this Court in Sutherland, at paragraph 20, "[t]he Officer needed to expressly take into consideration "the effect of removal from Canada would be [on her] mental health" (*Kanthasamy* at para 48)".

[37] In the case at bar, however, the psychiatrist's letter merely indicates that the deportation in itself would re-expose Cynthia to an unstable living environment, possibly causing her to have a depression relapse. The Officer did not question the psychiatrist's concerns, as she recognized the fact that being forced to leave Canada may bring someone to feel anxiety. For this reason, the Court finds that the Officer did in fact consider the impact the removal from Canada would have on Cynthia's mental health. The Officer was, however, of the view that "the depression or stress caused by the prospect of removal from Canada would not be sufficient to establish the existence of unusual and undeserved or disproportionate hardship", considering that the Applicants had yet to establish their identities, as well as their nationality (*Wann*, above, at para 23). The following explanation was given by the Officer in her reasons:

> Je suis consciente que l'obligation de devoir quitter le Canada peut entraîner sa part d'anxiété mais, j'estime que cela ne justifie pas en soi une dispense dans ce cas en particulier.
>
> (Tribunal Record, H&C Decision, p 53.)

[38] This Court has previously established that "the difficulties inherent in having to leave Canada are not sufficient" to grant an H&C application (*Mirza*, above, at para 3; *Paz v Canada (Minister of Citizenship and Immigration)*, 2009 FC 412; *Singh v Canada (Minister of Citizenship and Immigration)*, 2009 FC 11; *Ahmad v Canada (Minister of Citizenship and Immigration)*, 2008 FC 646). The Court concludes that no error was made by the Officer in the assessment of Cynthia's mental health. In the same vein, the Supreme Court of Canada

confirmed previous decisions of this Court recognizing that "there will inevitably be some hardship associated with being required to leave Canada. This alone will not generally be sufficient to warrant relief on humanitarian and compassionate grounds under s. 25(1)" (*Kanthasamy*, SCC Decision above, at para 23). After reviewing the H&C factors and the evidence in its entirety, the Officer was convinced that the Applicants' personal situation would not prevent them from presenting an H&C application from outside Canada.

[39] As for the available treatment in Rwanda, the Officer considered the psychiatrist's concern regarding this issue and found that the Applicants had only submitted documentary evidence about HIV treatment in Rwanda according to a 2014 report. Under these circumstances, it was reasonable for the Officer to explain in her reasons that such information is neither pertinent, nor beneficial, to Cynthia's situation. The onus was on the Applicant to demonstrate that she would face "unusual and undeserved or disproportionate hardship" if she were to apply for permanent residence outside of Canada (*Nicolas v Canada (Citizenship and Immigration)*, 2014 FC 903 at para 25). The Applicants did not provide any other objective evidence related to the available treatment and care for depressive disorder in Rwanda. For these reasons, the Officer was convinced that the letter from the psychiatrist was not, in and of itself, sufficient to grant Cynthia's request for an exemption under subsection 25(1) of the IRPA.

C. *Was the Officer's assessment of the adverse country conditions in Rwanda unreasonable?*

[40] The Officer considered the objective evidence that was submitted by the Applicants on the situation in Rwanda. Contrary to the Applicants' submission, the Court finds that it was not

unreasonable for the Officer to determine that "the discrimination or other established risks did not rise to the level of being exceptional, relative to what other unsuccessful claimants would face if required to return to their country of origin" (*Jesuthasan v Canada (Citizenship and Immigration)*, 2018 FC 142 at para 57).

[41] The Court finds that the Officer reasonably considered the Applicants' allegations. "The case law of this Court has repeatedly confirmed that H&C applications must present a particular risk that is personalized to the applicant" [Emphasis in the original] (*Dorlean v Canada (Citizenship and Immigration)*, 2013 FC 1024 at para 35 [*Dorlean*]). The Court refers to the observations in *Lalane v Canada (Minister of Citizenship and Immigration)*, 2009 FC 6 at para 38:

> The applicant has the burden of establishing a link between that evidence and his personal situation. Otherwise, every H&C application made by a national of a country with problems would have to be assessed positively, regardless of the individual's personal situation, and this is not the aim and objective of an H&C application.

[42] In the present case, the Officer acknowledged the fact that poverty, gender discrimination as well as sexual harassment are existent, as recognized per the general country condition evidence. She then stated at the end of her evaluation that the Applicants failed to establish how, in their particular circumstances, the situation in Rwanda would be such that they would be exempt from applying for permanent residency from outside Canada. As articulated by this Court in *Rebaï v Canada (Citizenship and Immigration)*, 2008 FC 24 at para 7:

> On an H&C application, the underlying question is whether the requirement that the applicant apply for permanent residence from outside of Canada would cause the applicant unusual and undeserved or disproportionate hardship.

[43] Finally, the Court adds that "the onus is on the applicant to demonstrate a link between the risk and her personal situation. Even if generalized risk could be proven in this case, this is not enough to succeed in an H&C claim" (*Dorlean*, above, at para 36). The Officer was not satisfied that the general conditions in Rwanda give rise to sufficient hardship, in the case of the Applicants, to warrant an H&C exemption. The relief under section 25 of the IRPA is highly discretionary and an exceptional measure. The Officer did not commit an error in the assessment of the adverse country conditions in Rwanda.

D. *Did the Officer apply the wrong legal test in assessing the Applicants' H&C application?*

[44] According to the Applicants, the Officer erred by applying the wrong legal test to the assessment of their H&C application. They submit that the Officer's analysis demonstrates that she has only considered hardship rather than humanitarian and compassionate factors. The Court disagrees. As cited by the Respondent, "[t]he Applicants presented, in their submissions, the factors that they believed justified granting their H&C application and the Officer reasonably considered and weighed those factors. […] As such, the Officer considered whether the evidence, as a whole, justified relief" [Emphasis added by the Respondent] (Respondent's Memorandum of Argument, para 80).

[45] "Many factors exist which an officer can take into account when making a H&C decision […] No one factor is determinative (L*egault v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 125, [2002] 4 FC 358)" (*Mirza*, above, at para 15).

[46] The Court concludes that the Officer applied the proper legal test in considering the Decision as a whole, as well as the evidence provided by the Applicants. Contrary to the Applicants' submission, the Court concludes that the Officer reiterated the burden of proof the Applicants were required to fulfill throughout her decision. She also correctly applied the *Chirwa* approach (*Chirwa v Canada (Minister of Citizenship and Immigration)*, [1970] IABD No 1). It is clear from the Decision that a "global assessment" of all the H&C factors had been made by the Officer (*Kanthasamy*, SCC Decision above, at para 28):

> En somme, à la lumière de l'ensemble de l'information au dossier, considérant leur profil de même que leurs circonstances telles que précédemment mentionnées, considérant qu'elles n'ont pas établi à ce jour leur identité ni leur citoyenneté, considérant l'insuffisance de preuve appuyant leurs allégations, je ne suis pas satisfait que les motifs d'ordre humanitaire présentés justifient l'octroi d'une dispense.
>
> (Tribunal Record, H&C Decision, p 53.)

[47] It must be recalled that neither identities nor the nationalities of the Applicants could be ascertained.

IX. Conclusion

[48] For these reasons, the Officer's Decision does not warrant the Court's intervention. The application for judicial review is denied.

JUDGMENT in IMM-4475-17

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

There is no serious question of general importance to be certified.

"Michel M.J. Shore"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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